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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3801 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHANTAM CORPORATION

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR BM MANGUKIYA for Petitioner

MR PRASHANT G DESAI for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/06/2001

ORAL JUDGEMENT

What is challenged in this petition under Article 226 of the Constitution is resolution No.61 dated 6-4-1998 passed by the Standing Committee of the Ahmedabad Municipal Corporation.

2. There is no dispute about the fact that the petitioner's tender to develop the part of Survey No.180, 196 and 192 Part-I of Meghaninagar area was accepted and

the petitioners deposited the amount with the respondent-Corporation and the respondent-Corporation thereafter handed over the possession of the plot in question to the petitioner on January 22, 1986. It is also not in dispute that the deed of agreement in favour of the petitioner firm was executed by the respondent-Corporation on January 5, 1986. However, a stay was obtained by Meghaninagar Jan Jagruti Mandal in Special Civil Application No.2061 of 1986 against the development of the plots. The said stay order was passed on 5-4-1986. Since the stay continued for almost 10 years, the petitioner could not start construction for a long time. It appears that in the meantime in the year 1990, the power of attorney holder of one of the partners of the petitioner firm had written a letter to the Corporation wherein he had demanded return of the security amount and had shown his willingness to return the possession of the plot in question. In view of this, the Standing Committee of the respondent-Corporation passed a Resolution No.1336 on 11-10-1990 to cancel the agreement and to return the 50% of the amount deposited by the petitioner firm.

3. Thereafter, the petitioner firm settled the dispute with the Meghaninagar Jan Jagruti Mandal which had filed the above petition (special civil application No.2061 of 1986). In view of the compromise between the petitioner and the said party, the said petition came to be withdrawn by Meghaninagar Jan Jagruti Mandal. As the stay was vacated, the petitioner attempted to proceed with the construction but the petitioner was not permitted to carry out the construction work on the aforesaid plot. Hence, the petitioner filed Special Civil Application No.4443/96. By judgment and order dated 12-7-1997, this court disposed of the petition with a direction to the petitioner to make an appropriate application duly signed by all the partners of the firm requesting the respondent -Corporation to reconsider the decision taken by the Standing Committee on 11-10-1990 and to direct the Standing Committee to consider such an application taking into consideration the following circumstances:

(i) that the said resolution was not acted upon.

(ii) that the petitioners are in possession of the plot in question since January, 1986.

(iii) there was no dispute amongst the partners or with any third party.

(iv) the petitioner was interested in developing the plot in question. The petitioner was not prima-facie responsible for delay in developing the plot in question.

The petitioner accordingly made such an application dated 9-9-1997. However, the Standing Committee passed the impugned resolution: No.61 dated 6-4-1998 (Annexure I) reiterating its previous decision dated 11-10-1990.

4. Learned counsel for the petitioner has sought to challenge the aforesaid resolution on various grounds. It is not necessary to enumerate or deal with all of them as the petition deserves to be disposed of on the short ground that the resolution does not indicate as to how the Standing Committee dealt with the circumstances in this Court's order dated 2-9-1997. Of course affidavits in reply are filed on behalf of the respondent-Corporation to justify the aforesaid resolution dated 6-4-1998 but in the facts and circumstances of the case and particularly in view of the fact that the petitioner has already carried out certain construction on the plot in question which according to the petitioner is not only substantial but most of the construction work required to be undertaken by the petitioner has already been completed, it would be just and proper to dispose of this petition with a direction to the respondent-Corporation that if the petitioner makes a fresh representation to the Standing Committee of the respondent-Corporation on or before 30th June, 2001, the Standing Committee shall consider the same in light of the observations made in the judgment dated 2-9-1997 of this Court in special civil application No.4443/96 and in light of such other factors as may be relevant, as expeditiously as possible and in any case by 31st August, 2001.

It is directed accordingly.

5. The petition is accordingly disposed of in terms of the aforesaid direction. Rule is made absolute to the aforesaid extent only with no order as to costs.

zgs/-